

HOUSE BILL 1826

M3

EMERGENCY BILL

8lr4076

By: **Delegate Robinson**

Rules suspended

Introduced and read first time: March 13, 2018

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Water Pollution Control – Water Quality Certification**

3 FOR the purpose of requiring the Department of the Environment to submit a certain
4 notification to certain federal agencies and conduct a certain independent review on
5 receipt of a certain application for a water quality certification; prohibiting the
6 Department from voluntarily waiving its authority to review the application;
7 requiring the Department to take certain factors into consideration when reviewing
8 the application; requiring the Department to hold a certain public hearing after the
9 application has been partially reviewed; authorizing the Department to approve,
10 conditionally approve, or deny the application; requiring the Department to notify
11 certain federal agencies of the Department’s approval or denial of the application
12 and the rationale for the Department’s decision; authorizing the Department to
13 adopt certain regulations; requiring the Department to deny without prejudice
14 certain applications for a water quality certification currently before the
15 Department; making this Act an emergency measure; and generally relating to
16 water quality certifications.

17 BY repealing and reenacting, with amendments,
18 Article – Environment
19 Section 9–301
20 Annotated Code of Maryland
21 (2014 Replacement Volume and 2017 Supplement)

22 BY adding to
23 Article – Environment
24 Section 9–354 and 9–355 to be under the new part “Part VII. Water Quality
25 Certification”
26 Annotated Code of Maryland
27 (2014 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Environment**

4 9–301.

5 (a) In this subtitle the following words have the meanings indicated.

6 (b) “Board” means the Water Science Advisory Board.

7 (c) “Discharge permit” means a permit issued by the Department for the
8 discharge of any pollutant or combination of pollutants into the waters of this State.

9 (d) **“KARST TERRAIN” MEANS A TOPOGRAPHY FORMED FROM THE**
10 **DISSOLUTION OF SOLUBLE ROCKS SUCH AS LIMESTONE, DOLOMITE, AND GYPSUM.**

11 (E) “Person” includes the federal government, this State, any county, municipal
12 corporation, or other political subdivision of this State, or any of their units.

13 [(e)] (F) “Reclaimed water” means sewage that:

14 (1) Has been treated to a high quality suitable for various reuses; and

15 (2) Has a concentration of less than:

16 (i) 3 fecal coliform colonies per 100 milliliters;

17 (ii) 10 milligrams per liter of 5–day biological oxygen demand; and

18 (iii) 10 milligrams per liter of total suspended solids.

19 [(f)] (G) “Sewage” means any human or animal excretion, domestic waste, or
20 industrial waste.

21 [(g)] (H) (1) “Sewerage system” means:

22 (i) The channels used or intended to be used to collect and dispose
23 of sewage; and

24 (ii) Any structure and appurtenance used or intended to be used to
25 collect or prepare sewage for discharge into the waters of this State.

26 (2) “Sewerage system” includes any sewer of any size.

1 (3) “Sewerage system” does not include the plumbing system inside any
2 building served by the sewerage system.

3 **(I) “WATER QUALITY CERTIFICATION” MEANS A WATER QUALITY**
4 **CERTIFICATION REQUESTED IN ACCORDANCE WITH SECTION 401 OF THE FEDERAL**
5 **CLEAN WATER ACT.**

6 **9-352. RESERVED.**

7 **9-353. RESERVED.**

8 **PART VII. WATER QUALITY CERTIFICATION.**

9 **9-354.**

10 **(A) (1) ON RECEIPT OF AN APPLICATION FOR A WATER QUALITY**
11 **CERTIFICATION FOR A PROJECT THAT INVOLVES CONSTRUCTION ON OR DRILLING**
12 **IN KARST TERRAIN, THE DEPARTMENT SHALL, AS SOON AS PRACTICABLE:**

13 **(I) NOTIFY THE U.S. ARMY CORPS OF ENGINEERS AND ANY**
14 **OTHER APPROPRIATE FEDERAL AGENCY THAT THE DEPARTMENT IS NOT WAIVING**
15 **ITS AUTHORITY TO REVIEW THE APPLICATION; AND**

16 **(II) CONDUCT AN INDEPENDENT REVIEW, IN ACCORDANCE**
17 **WITH SUBSECTIONS (B) AND (C) OF THIS SECTION, THAT IS SEPARATE FROM ANY**
18 **INVESTIGATION OR AUTHORIZATION BY OTHER STATE OR FEDERAL AGENCIES OF**
19 **WHETHER THE APPLICATION MEETS APPLICABLE STATE WATER QUALITY**
20 **STANDARDS.**

21 **(2) THE DEPARTMENT MAY NOT VOLUNTARILY WAIVE ITS**
22 **AUTHORITY TO REVIEW AN APPLICATION FOR A WATER QUALITY CERTIFICATION.**

23 **(B) THE DEPARTMENT’S REVIEW OF AN APPLICATION FOR A WATER**
24 **QUALITY CERTIFICATION SHALL TAKE INTO CONSIDERATION:**

25 **(1) BEST AVAILABLE SCIENTIFIC EVIDENCE OF THE PROPOSED**
26 **PROJECT’S IMPACT ON WATER QUALITY IN THE STATE;**

27 **(2) PUBLIC INPUT, INCLUDING COMMENTS RECEIVED DURING THE**
28 **PUBLIC HEARING REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; AND**

29 **(3) ANY OTHER INFORMATION THE DEPARTMENT CONSIDERS**
30 **NECESSARY TO ASSIST WITH ITS REVIEW.**

1 **(C) AFTER THE DEPARTMENT HAS REVIEWED AN APPLICATION, TAKING**
2 **INTO CONSIDERATION THE FACTORS SPECIFIED IN SUBSECTION (B)(1) AND (3) OF**
3 **THIS SECTION, THE DEPARTMENT SHALL HOLD A PUBLIC HEARING TO:**

4 **(1) PRESENT THE DEPARTMENT'S ASSESSMENT OF THE**
5 **APPLICATION WITH RESPECT TO:**

6 **(I) THE CONSIDERATIONS SPECIFIED IN SUBSECTION (B)(1)**
7 **AND (3) OF THIS SECTION; AND**

8 **(II) THE PROPOSED PROJECT'S COMPLIANCE WITH**
9 **APPLICABLE STATE WATER QUALITY STANDARDS; AND**

10 **(2) PROVIDE AN OPPORTUNITY FOR PUBLIC INPUT.**

11 **(D) (1) BASED ON THE CONSIDERATIONS IN SUBSECTION (B) OF THIS**
12 **SECTION, THE DEPARTMENT MAY APPROVE, CONDITIONALLY APPROVE, OR DENY**
13 **AN APPLICATION FOR A WATER QUALITY CERTIFICATION.**

14 **(2) THE DEPARTMENT SHALL NOTIFY THE U.S. ARMY CORPS OF**
15 **ENGINEERS AND OTHER FEDERAL AGENCIES NOTIFIED UNDER SUBSECTION**
16 **(A)(1)(I) OF THIS SECTION OF THE DEPARTMENT'S APPROVAL OR DENIAL OF AN**
17 **APPLICATION AND THE RATIONALE FOR THE DEPARTMENT'S DECISION.**

18 **9-355.**

19 **THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That, to provide time for review in
21 accordance with Section 1 of this Act, the Department of the Environment shall deny
22 without prejudice any application currently before the Department for a water quality
23 certification requested under Section 401 of the federal Clean Water Act, including the
24 Columbia Gas Transmission's application for the Eastern Panhandle Expansion Project.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
26 measure, is necessary for the immediate preservation of the public health or safety, has
27 been passed by a yea and nay vote supported by three-fifths of all the members elected to
28 each of the two Houses of the General Assembly, and shall take effect from the date it is
29 enacted.